

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

TERRANCE WILLIAMS,

Plaintiff,

v.

MILLER, *et al.*,

Defendants.

Case No. 3:22-cv-00426-ART-CLB

DISMISSAL ORDER

Plaintiff Terrance Williams brings this civil-rights action under 42 U.S.C. § 1983 to redress constitutional violations that he claims he suffered while incarcerated at Northern Nevada Correctional Center. (ECF No. 1-1). On September 27, 2022, this Court ordered Williams to file a fully complete application to proceed *in forma pauperis* or pay the full \$402 filing fee on or before November 22, 2022. (ECF No. 3). The Court warned Williams that the action could be dismissed if he failed to file a fully complete application to proceed *in forma pauperis* with all three documents or pay the full \$402 filing fee for a civil action by that deadline. (*Id.* at 3). The Court also sent Williams a copy of the *in forma pauperis* application. (ECF No. 3-1). That deadline expired and Williams did not file a fully complete application to proceed *in forma pauperis* or pay the full \$402 filing fee. Instead, Williams only submitted a financial certificate and an inmate account statement to the Court but did not submit the 3-page application. (See ECF No. 4).

**I. DISCUSSION**

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action based

1 on a party's failure to obey a court order or comply with local rules. *See Carey v.*  
2 *King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to  
3 comply with local rule requiring *pro se* plaintiffs to keep court apprised of  
4 address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987)  
5 (dismissal for failure to comply with court order). In determining whether to  
6 dismiss an action on one of these grounds, the Court must consider: (1) the  
7 public's interest in expeditious resolution of litigation; (2) the Court's need to  
8 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy  
9 favoring disposition of cases on their merits; and (5) the availability of less drastic  
10 alternatives. *See In re Phenylpropanolamine Prod. Liab. Litig.*, 460 F.3d 1217,  
11 1226 (9th Cir. 2006) (quoting *Malone v. U.S. Postal Serv.*, 833 F.2d 128, 130 (9th  
12 Cir. 1987)).

13 The first two factors, the public's interest in expeditiously resolving this  
14 litigation and the Court's interest in managing its docket, weigh in favor of  
15 dismissal of Williams' claims. The third factor, risk of prejudice to defendants,  
16 also weighs in favor of dismissal because a presumption of injury arises from the  
17 occurrence of unreasonable delay in filing a pleading ordered by the court or  
18 prosecuting an action. *See Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir.  
19 1976). The fourth factor—the public policy favoring disposition of cases on their  
20 merits—is greatly outweighed by the factors favoring dismissal.

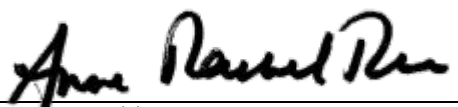
21 The fifth factor requires the Court to consider whether less drastic  
22 alternatives can be used to correct the party's failure that brought about the  
23 Court's need to consider dismissal. *See Yourish v. Cal. Amplifier*, 191 F.3d 983,  
24 992 (9th Cir. 1999) (explaining that considering less drastic alternatives *before*  
25 the party has disobeyed a court order does not satisfy this factor); *accord*  
26 *Pagtalunan v. Galaza*, 291 F.3d 639, 643 & n.4 (9th Cir. 2002) (explaining that  
27 “the persuasive force of” earlier Ninth Circuit cases that “implicitly accepted  
28 pursuit of less drastic alternatives prior to disobedience of the court's order as

1 satisfying this element[,]" *i.e.*, like the "initial granting of leave to amend coupled  
2 with the warning of dismissal for failure to comply[,]" have been "eroded" by  
3 *Yourish*). Courts "need not exhaust every sanction short of dismissal before  
4 finally dismissing a case, but must explore possible and meaningful  
5 alternatives." *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986).  
6 Because this action cannot realistically proceed until and unless Williams either  
7 files a fully complete application to proceed *in forma pauperis* or pays the \$402  
8 filing fee for a civil action, the only alternative is to enter a second order setting  
9 another deadline. But the reality of repeating an ignored order is that it often  
10 only delays the inevitable and squanders the Court's finite resources. The  
11 circumstances here do not indicate that this case will be an exception: there is  
12 no hint that Williams needs additional time or evidence that he did not receive  
13 the Court's order. Setting another deadline is not a meaningful alternative given  
14 these circumstances. So, the fifth factor favors dismissal.

## 15 **II. CONCLUSION**

16 Having thoroughly considered these dismissal factors, the Court finds that  
17 they weigh in favor of dismissal. It is therefore ordered that this action is  
18 dismissed without prejudice based on Williams' failure to file a fully complete  
19 application to proceed *in forma pauperis* or pay the full \$402 filing fee in  
20 compliance with this Court's September 27, 2022, order. The Clerk of Court is  
21 directed to enter judgment accordingly and close this case. No other documents  
22 may be filed in this now-closed case. If Williams wishes to pursue his claims, he  
23 must file a complaint in a new case.

24  
25 DATED THIS 2nd day of December 2022.

26  
27   
28 ANNE R. TRAUM  
UNITED STATES DISTRICT JUDGE